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(7th, 8 mo., 1685), is complete in all its parts, from the binding over of the prisoner to final judgment. The defendant was indicted for fornication and other misdemeanors, which he was charged to have committed under somewhat peculiar circumstances. The prisoner was convicted, and at the close of the proceedings Peter Cock, one of the prosecutors, "was (for swearing in the open face of the Court "By God") fyned 5 shillings."

Upon page 112 of the book will be found a subsequent development of this same case (also under the title *Bridget Cock v. John Rambo*), which is the record of the first known instance of a trial in Pennsylvania for breach of promise of marriage. This last case also affords positive evidence of the fact "that an ecclesiastical court once actually sat within the limits of this State and gave a judgment which it was endeavored to enforce."

Under the date of 2nd, 4 mo., 1686, we find the first record of the adoption of a set of Rules of Court. Many of them are extremely quaint. We reprint the third rule in full: "That plfs. defts. & all other psons speake directly to the point in question, & yt they put in their pleas in writing (this being a Court of record), & that they forbear reflections & recriminaons either on the Court, Juries, or on one another under penalty of a fine."

On page 141, at the conclusion of the report of the case of the *Proprietor v. Geo. Keith, et al.*, Judge PENNYPACKER makes an interesting suggestion that the Pennsylvania judges are to be credited with the honor of initiating the legal reform which culminated in Fox's Libel Act.

Some of the presentments of the Provincial Grand Jury are curious and interesting. Under date of 2nd, 4 mo., 1686, we find the following: "Wee present Sarah Howell for yt on or neer ye 27th of last month shee sold Rum to an Indian. The wife of Robert Jeffries for at some time within the last six mos., by her owne acknowledgment, she mixed Rum with water & sold ye same to some Indians, & widow Kee for selling Rum to ye Indians. John Straten for concealing ye name of one of yt sold a bottle of Rum to an Indian." A year earlier the grand jury had presented "the highway on the flatt on the other side Schuilkill opposite to the Ferrie house as insuficient for passage." Also "Samll. hersent for not Securing in fetters Bethell Langstaffe when committed to him for robbing Richard Reynolds."

Lack of space forbids that we should make further extracts from this interesting volume. Nothing short of a reprint would do it justice. We take pleasure in commending it to our readers as containing much that is both instructive and entertaining.

G. W. P.

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THE LAW OF MANDAMUS. By S. S. MERRILL, of the St. Louis Bar. Chicago: T. H. Flood & Co., 1892.

This is a work of value. It is the result of an examination of a large number of judicial decisions, which are discussed in a temperate and discriminating manner. The author assures us in his preface that he has

himself carefully examined every decision cited, and that his readers may safely rely on the correctness of the citations. At this day, when so many law books are made with scissors and paste, and when the work of assistants is so largely utilized, it is cheering to meet with such an assurance as this upon the threshold of the volume.

The author defines the writ of mandamus and gives an outline of its history. He discusses the scope of the writ and the general principles governing the issue of it; treats of the discretion of the court in regard to it, and then takes up, one by one, the various uses of the mandamus and examines the principles applicable in each case. The work ends with a chapter devoted to forms in mandamus proceedings, which is preceded by a chapter on "Miscellaneous Principles." It may be remarked in passing that the contents of this last-named chapter might have been with advantage distributed through the book under various specific heads. So much of the chapter as relates to the reciprocal bar of mandamus and suits for damages could have been not inappropriately treated in connection with § 51, which deals with the denial of the writ when other remedies exist. So much of the chapter as discusses the rule that an injunction will not issue against the prosecution of a mandamus might have been treated under § 3. Indeed, Mr. MERRILL has found it necessary to cite the leading case of *Lord Montague v. Dudman* in support of the same proposition printed at the beginning and at the end of his work. So much of the chapter as deals with the principle that mandamus is not always issued when there is no other remedy might have formed part of Chapter II, while the subject of the statute of limitations might have been relegated to Chapter V, and the subject of *res judicata* to Chapter XIX. Indeed, the only adverse criticism which we have to make of this book is that the author has been apparently overwhelmed by the torrent of miscellaneous decisions, and that, while he has struggled manfully against the flood, and has done much toward confining the unruly element in its proper channels, he has not entirely succeeded in his task; and, in consequence, several streams are left flowing in a single bed when it would have been proper to direct them into different courses.

We here find, however, the whole law of mandamus. Moreover, we find the principles clearly stated and the cases satisfactorily summarized. Doubtful questions are approached in a scientific manner, and upon such a point as the question whether a private party can be the relator to enforce a public right (§ 229), we find an able marshaling of authorities. The same remark can be made with respect to many parts in the work; among them we may mention (§ 242), "Can third parties be subsequently brought in as relator or respondents?" and (§ 167), "Will a mandamus lie to restore to membership in a private corporation when no pecuniary interests are involved?" This last paragraph should be read in connection with § 49, where the cases on the subject are carefully reviewed.

We are convinced, upon the whole, that Mr. MERRILL has done his work carefully and well; and it is doubtless safe to predict that the profession will accord to this volume the welcome which it unquestionably deserves.

G. W. P.